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Office of the Attorney General

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**OAG 20-17**

*Subject:* Whether mayors and members of city legislative bodies may take the oath of office required by KRS 62.010 by virtual means.

*Requested by:* Troy Rudder, Mayor of the City of London  
President, Kentucky League of Cities

and

J.D. Chaney, Executive Director  
Kentucky League of Cities

*Written by:* Carmine G. Iaccarino  
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*Syllabus:* The oath of office required by KRS 62.010 may be administered in-person or by virtual means.

***Opinion of the Attorney General***

Many newly elected officials will take office on January 1, 2021, during a public health emergency. Both the Kentucky Constitution and KRS 62.010 require certain public officials to take the oath of office prior to entering office. *See* Ky. Const. § 228 (requiring the oath of office for all officers and attorneys); KRS 62.010(2) (requiring

administration of the official oath to any “person elected to an office”). But no provision dictates whether the oath must be taken in person or through other means. For the reasons that follow, it is the Attorney General’s opinion that the oath of office may be administered by virtual means.

KRS 62.020 contains specific provisions outlining who may administer the oath and the circumstances under which oath certifications must be filed or retained. *See also* KRS 83A.180 (providing that a mayor may administer oath for any city officer). Despite its many provisions, the text of KRS 62.010 does not expressly address *how* the oath may be administered—whether in-person or by virtual means. Of course, “[t]he text is the law.” *Owen v. University of Kentucky*, 486 S.W.3d 266, 272 (Ky. 2016). But here, the text is silent. And this Office is “not at liberty to add or subtract” a requirement that the oath be administered *only* in person if not so stated in the statute. *Cf. Beckham v. Bd. of Educ. of Jefferson Cty.*, 873 S.W.2d 575, 577 (Ky. 1994) (citing *Gateway Construction Co. v. Wallbaum*, 356 S.W.2d 247 (Ky. App. 1962)).

Because the text does not prohibit it, the oath of office required by KRS 62.010, may be administered by virtual means. This conclusion is further bolstered by the fact that when the General Assembly omits a requirement in one place, but includes it in another, the omission enforces the “affirmative inference that that which is omitted must be intended to have opposite and contrary treatment.” In KRS 423.390(4), the General Assembly requires that notaries public must “appear in person to take an oath of office . . . before the county clerk listed in the commission application.” This suggests that if the General Assembly wanted to insist on in-person administration of the oath, it could have done so.

Finally, the Attorney General’s conclusion is further bolstered by the Supreme Court of Kentucky’s recent conduct in administering the oath of office. Specifically, Chief Justice Minton was administered the oath of office by virtual means when he was sworn into his fourth term as Chief Justice of the Supreme Court of Kentucky by Deputy Chief Justice Lisabeth T. Hughes using Zoom.<sup>1</sup> Similarly, Chief Justice Minton administered the oath of office by virtual means when he swore in newly-elected Court of Appeals Judge J. Christopher McNeill using the Supreme Court’s YouTube channel.<sup>2</sup>

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<sup>1</sup> For posterity’s sake, Zoom’s 2019 SEC FORM 10-K describes it as a “video-first communications platform that delivers happiness and fundamentally changes how people interact. We connect people through frictionless video, phone, chat, and content sharing and enable face-to-face video experiences for thousands of people in a single meeting across disparate devices and locations.” As the health pandemic continued through 2020, Zoom and similar options such as Microsoft Teams, Skype, WebEx, and others largely replaced in-person meetings in many facets of life and the workplace.

<sup>2</sup> *See* Bench and Bar Magazine, July/August 2020, at pp. 56, 58, available at <https://tinyurl.com/ybs5lsah> (last visited Dec. 14, 2020).

For all of these reasons, it is the Attorney General's opinion that the oath of office required by KRS 62.010 may be administered in-person or by virtual means.

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